

FILED

NOV 25 2013

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

MATTHEW DANIEL GRIFFIN,

Plaintiff,

vs.

LEROY KIRKEGARD-WARDEN;
DAVE PENTLAND-SENIOR DHO;
LOREN KUCHINSKY-DISP.
INVESTIGATOR; and KEN COZBY-
HEARINGS OFFICER,

Defendants.

CV 13-27-H-DWM-RKS

ORDER

Matthew Griffin is a state prisoner proceeding pro se. He brings an action alleging he was disciplined at Montana State Prison without adequate due process. Magistrate Judge Keith Strong recommends this Court dismiss Griffin's Complaint for failure to state a claim upon which relief can be granted. (Doc. 6.)

Griffin has not filed objections to Judge Strong's Findings and Recommendation. The Court reviews the findings and recommendations that are not specifically objected to for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981).

“A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). Griffin alleges Defendants placed him in disciplinary segregation on false charges, seeks a declaratory judgment stating that Defendants violated his due process rights, seeks an injunction ordering Warden Kirkegard to expunge the disciplinary convictions from Griffin’s files, and requests punitive damages. The Court finds no clear error with Judge Strong’s determination that the Complaint fails to state a claim upon which relief may be granted because none of the allegations implicate a protected liberty interest.

Accordingly, IT IS ORDERED that the Findings and Recommendation (Doc. 6) is ADOPTED IN FULL. Griffin’s Complaint (Doc. 2) is DISMISSED.

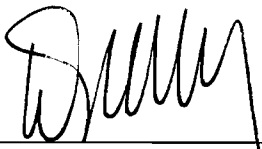
IT IS FURTHER ORDERED that the Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Fed. R. App. P. 24(a)(3)(A) that any appeal of this decision would not be taken in good faith. The record makes

plain the instant Complaint is frivolous and lacks arguable substance in law or fact.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g). Griffin failed to state a claim upon which relief may be granted and his claims are frivolous.

Dated this 25 day of November, 2013.



Donald W. Molloy, District Judge
United States District Court